

REMARKS

Status of the Claims

The pending Office Action addresses and rejects claims 1-6, 8, 10-18, and 27-55. Reconsideration is respectfully requested based on the remarks herein.

Applicant thanks the Examiner for the telephone interview with Applicant's representatives Lisa Adams and the undersigned attorney on May 10, 2010.

Amendments to the Claims

Claim 35 is cancelled. Applicant reserves the right to pursue any form of canceled claims in a continuation application.

Claim 31 is amended to recite that the at least one cut-out portion extending from a proximal end of the guide member to a distal end of the guide member. Claim 37 is amended to recite first and second pathways formed in the guide member for receiving a tool. Support for these amendments can be found throughout the specification and drawings, for example in Figures 5A and 5B. No new matter is added.

Rejections of the Claims

Claims 31, 32, and 36 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,756,742 of Barton ("Barton"). Claim 33 is rejected pursuant to 35 U.S.C. §103(a) as being obvious over Barton in view of U.S. Patent No. 3,626,471 of Florin ("Florin"). The Examiner agreed in the May 10, 2010 interview that independent claim 31 as amended distinguishes over the cited art. Accordingly, claim 31, as well as claims 32, 33, and 36 which depend therefrom, represent allowable subject matter.

Claim 37 is rejected pursuant to 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,663,562 of Chang ("Chang"). The Examiner agreed in the May 10, 2010 interview that independent claim 37 as amended distinguishes over the cited art. Accordingly, claim 37 represents allowable subject matter.

Provisional Double Patenting Rejection

Claims 1-6, 8, 10-18, and 27-55 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 8-21, and 24-26 of U.S. Patent App. No. 10/609,123. Applicant submits a terminal disclaimer herewith, thereby obviating the basis for the Examiner's rejections.

Conclusion

Accordingly, all claims are now in condition for allowance, and allowance thereof is respectfully requested. Applicant's amendment of the claims does not constitute a concession that the claims are not allowable in their unamended form. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

No extension of time is believed to be due with this filing. In the event that a petition for an extension of time is required to be submitted at this time, Applicants hereby petition under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to ensure that the above-identified application does not become abandoned.

All fees due are believed to be paid. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 141449, under Order No. 101896-234.

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Respectfully submitted,

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